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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,803	07/26/2000	Robert A. Rabiner	11010/18	8247
29934	7590	08/03/2004	EXAMINER	
PALMER & DODGE, LLP RICHARD B. SMITH 111 HUNTINGTON AVENUE BOSTON, MA 02199			MANTIS MERCADER, ELENI M	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/625,803

Applicant(s)

RABINER ET AL.

Examiner

Eleni Mantis Mercader

Art Unit

3737

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 17-28 and 49-82.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


Eleni Mantis Mercader
Primary Examiner
Art Unit: 3737

Continuation of 2. NOTE: The newly added limitaion to overcome the 102 rejection was addressed in the 103 rejections, and with respect to the 103 rejections the arguments presented are not persuasive. The Examiner respectfully disagrees with Applicant's arguments in that the current claims state nothing with respect to wavelength equations or longitudinal versus transverse waves. The claims refer to vibration. Anti-nodes or loops inherently cause transverse vibration or cavitation and since these multiple loops are located across the length of the probe, vibration or cavitation occurs at these locations along the length of the probe. Also, the Examiner disagrees with the arguments regarding Soble et al.'724 because this reference does teach an aspiration channel recessed along the length of an outer surface of the ultrasonic probe in the broadest reasonable interpretation of the claim language as a probe structure does not exclude lumens which can be used for aspiration and an aspiration channel could be a lumen used for aspiration. For at least the same reasons all double patenting rejections stand.

Continuation of 10. Other: The Examiner has included claims 61-62 for purposes of Appeal as they are addressed under the same rejections and were inadvertently omitted in the prior office action.